

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

150 East 42nd Street, New York, New York 10017-5639 Tel: (212) 490-3000 Fax: (212) 490-3038

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8/9/12
Chambers of
I. Leo Glasser
U.S.D.J.

August 6, 2012

Via Facsimile and Regular Mail

TO BE FILED UNDER SEAL

The Honorable Brian M. Cogan
United States District Judge
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Doe v. Roe, 98 CR 1101 (ILG)
Our File No. : 07765.00155

Dear Judge Cogan:

We are writing to respond to the letter submitted by counsel for John Doe ("Doe") on August 2, 2012.

First, Doe's uncorroborated allegations regarding a recent alleged attack on Salvatore Lauria and the alleged threat on John Doe's life by Daniel Persico are not properly addressed by this Court in the context of a civil contempt motion. It is a matter that should be presented to, and handled by, the appropriate law enforcement authorities.

Notably, Doe does not specify the relief that he is seeking. In his letter, Doe simply asks the Court to "schedule an emergency hearing and fashion an appropriate remedy to protect Doe and punish Roe and Lerner." Doe's failure to request specific relief is indicative: the courtroom is not the proper forum for remedying the alleged assault and alleged threat or for protecting Lauria and Doe from potential threats or acts of violence in the future.

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Second, as set forth in our prior submissions, neither Richard Roe ("Roe") nor Richard E. Lerner, Esq. ("Lerner") committed civil contempt of court by violating sealing orders issued by the Second Circuit and/or this Court. In the letter dated August 2, 2012, Doe simply repeats the arguments made in his prior submissions in support of his civil contempt motion. The only additional allegation is that Roe and Lerner allegedly disclosed sealed documents not only to the media, but also to Gerald Shargell ("Shargell"), the attorney who represented Daniel Persico in the case in which Doe cooperated.

There is no evidence to suggest that Roe and/or Lerner shared sealed documents with Shargell. Doe simply quotes the February 14, 2011 hearing in which Lerner informed the Second Circuit that "Mr. Roe has discussed retaining Gerald Shargel[I]. . . . Mr. Roe gave Mr. Shargell copies of the filings in these proceedings." Doe concludes, without any basis whatsoever, that these "filings" consisted of sealed documents describing Doe's cooperation.

Moreover, as Doe concedes in his letter, he previously informed this Court of Roe and Lerner's alleged improper disclosures of sealed documents to Shargell. On April 1, 2011, your Honor ruled that this Court's limited jurisdiction does not extend to the alleged misconduct, as the alleged disclosures to Shargell pre-date the Second Circuit's Summary Order issued on February 14, 2011.

Third, Roe and Lerner's alleged contemptuous conduct in no way caused or contributed to the alleged assault on Salvatore Lauria and alleged threat on Doe's life. It is pure speculation that there is a causal connection here. Doe's unsupported assertion that "it is not unreasonable to believe that [Roe and Lerner] deliberately intended for Doe to be harmed" is wholly without merit.

For the reasons described above, we respectfully request that this Court deny John Doe's request for an emergency hearing and not take his August 2, 2012 letter into consideration when ruling on the civil contempt motion.

Very truly yours,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

Coleen Friel Middleton
Coleen Friel Middleton
bjm

CFM/bjm

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cc: The Honorable I. Leo Glasser (by mail)
United States District Judge
United States District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Richard Roe (by e-mail)

Assistant United States Attorney Stephen Green (by e-mail)

Michael P. Beys, Esq. (by e-mail)
Beys, Stein & Mobarha, LLP
The Chrysler Building
405 Lexington Avenue
7TH Floor
New York, New York 10174